

REFERENCE TITLE: health insurance premium tax repeal

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2730

Introduced by
Representative Biggs

AN ACT

AMENDING SECTIONS 20-224, 20-224.02, 20-224.03 AND 20-224.04, ARIZONA REVISED STATUTES; REPEALING SECTION 20-224.05, ARIZONA REVISED STATUTES; AMENDING SECTION 20-225, ARIZONA REVISED STATUTES; REPEALING SECTIONS 20-837, 20-1010 AND 20-1060, ARIZONA REVISED STATUTES; AMENDING SECTION 20-2304, ARIZONA REVISED STATUTES; REPEALING SECTION 43-210, ARIZONA REVISED STATUTES; RELATING TO HEALTH INSURANCE PREMIUM TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 20-224, Arizona Revised Statutes, is amended to read:

20-224. Premium tax

A. On or before March 1 of each year each authorized domestic insurer, each other insurer and each formerly authorized insurer referred to in section 20-206, subsection B, shall file with the director a report in a form prescribed by the director showing total direct premium income including policy membership and other fees and all other considerations for insurance from all classes of business whether designated as a premium or otherwise received by it during the preceding calendar year on account of policies and contracts covering property, subjects or risks located, resident or to be performed in this state, after deducting from such total direct premium income applicable cancellations, returned premiums, the amount of reduction in or refund of premiums allowed to industrial life policyholders for payment of premiums direct to an office of the insurer and all policy dividends, refunds, savings coupons and other similar returns paid or credited to policyholders within this state and not reapplied as premiums for new, additional or extended insurance. No deduction shall be made of the cash surrender values of policies or contracts. Considerations received on annuity contracts, as well as the unabsorbed portion of any premium deposit, shall not be included in total direct premium income, and neither shall be subject to tax. The report shall separately indicate the total direct premium income received from fire insurance premiums on property located in an incorporated city or town that procures the services of a private fire company.

B. Coincident with the filing of such tax report each insurer shall pay to the director for deposit, pursuant to sections 35-146 and 35-147, a tax of 2.0 per cent of such net premiums, except that the tax on fire insurance premiums on property located in an incorporated city or town which procures the services of a private fire company is .66 per cent, the tax on all other fire insurance premiums is 2.2 per cent and the tax on health care service and disability insurance premiums is ~~as prescribed under sections 20-837, 20-1010 and 20-1060~~ ZERO. Any payments of tax pursuant to subsection E of this section shall be deducted from the tax payable pursuant to this subsection. Each insurer shall reflect the cost savings attributable to the lower tax in fire insurance premiums charged on property located in an incorporated city or town that procures the services of a private fire company.

C. Eighty-five per cent of the tax paid hereunder by an insurer on account of premiums received for fire insurance shall be separately specified in the report and shall be apportioned in the manner provided by sections 9-951, 9-952 and 9-972, except that all of the tax so allocated to a fund of a municipality which has no volunteer fire fighters or pension obligations to volunteer fire fighters shall be appropriated to the account of the

1 municipality in the public safety personnel retirement system and all of the
 2 tax so allocated to a fund of a municipality which has both full-time paid
 3 fire fighters and volunteer fire fighters or pension obligations to full-time
 4 paid fire fighters or volunteer fire fighters shall be appropriated to the
 5 account of the municipality in the public safety personnel retirement system
 6 where it shall be reallocated by actuarial procedures proportionately to the
 7 municipality for the account of the full-time paid fire fighters and to the
 8 municipality for the account of the volunteer fire fighters. A full
 9 accounting of such reallocation shall be forwarded to the municipality and
 10 both local boards.

11 D. This section shall not apply to title insurance, and such insurers
 12 shall be taxed as provided in section 20-1566.

13 E. Any insurer which paid or is required to pay a tax of two thousand
 14 dollars or more on net premiums received during the preceding calendar year,
 15 pursuant to subsection B of this section and sections 20-224.01, ~~20-837,~~
 16 ~~20-1010, 20-1060~~ and 20-1097.07, shall file on or before the fifteenth day of
 17 each month from March through August a report for that month, on a form
 18 prescribed by the director, accompanied by a payment in an amount equal to
 19 fifteen per cent of the amount paid or required to be paid during the
 20 preceding calendar year pursuant to subsection B of this section and sections
 21 20-224.01, ~~20-837, 20-1010, 20-1060~~ and 20-1097.07. The payments are due and
 22 payable on or before the fifteenth day of each month and shall be made to the
 23 director for deposit, pursuant to sections 35-146 and 35-147.

24 F. Except for the tax paid on fire insurance premiums pursuant to
 25 subsections B and C of this section, an insurer may claim a premium tax
 26 credit if the insurer qualifies for a credit pursuant to section 20-224.03 or
 27 20-224.04.

28 Sec. 2. Section 20-224.02, Arizona Revised Statutes, is amended to
 29 read:

30 20-224.02. Credit for overpayment of tax

31 If an overpayment of the taxes imposed by sections 20-224, 20-224.01, ~~20-837,~~
 32 ~~20-1010, 20-1060~~ and 20-1097.07 results from payments made pursuant
 33 to the method prescribed in section 20-224, subsection E, the director shall
 34 within three months after the due date refund the overpayment without
 35 interest.

36 Sec. 3. Section 20-224.03, Arizona Revised Statutes, is amended to
 37 read:

38 20-224.03. Premium tax credit for increased employment in
 39 enterprise zones; definition

40 A. A tax credit is allowed against the premium tax liability incurred
 41 by an insurer pursuant to section 20-224, ~~20-837, 20-1010, 20-1060~~ or
 42 20-1097.07 for net increases in qualified employment positions of residents
 43 of this state by an insurer that is located in an enterprise zone established
 44 under title 41, chapter 10, article 2. A tax credit is not allowed for the
 45 portion of the tax payable to the fire fighters' relief and pension fund

1 pursuant to section 20-224 or the portion of the tax payable to the public
2 safety personnel retirement system pursuant to section 20-224.01. Subject to
3 subsection D of this section, the amount of the tax credit is equal to:

4 1. One-fourth of the taxable wages paid to an employee in a qualified
5 employment position, not to exceed five hundred dollars, in the first year or
6 partial year of employment.

7 2. One-third of the taxable wages paid to an employee in a qualified
8 employment position, not to exceed one thousand dollars per qualified
9 employment position, in the second year of continuous employment.

10 3. One-half of the taxable wages paid to an employee in a qualified
11 employment position, not to exceed one thousand five hundred dollars per
12 qualified employment position, in the third year of continuous employment.

13 B. To qualify for a credit under this section:

14 1. All of the employees with respect to whom a credit is claimed must
15 reside in this state.

16 2. Thirty-five per cent of the employees with respect to whom a credit
17 is claimed for the first year of employment must reside on the date of hire
18 in an enterprise zone that is located in the same county in which the insurer
19 is located. If an employee for whom a credit was allowed in the first year
20 of employment leaves employment during the second or third year, the taxpayer
21 may substitute another employee who meets the requirements of paragraph 3 of
22 this subsection and who was hired during the same year as the original
23 employee. If the original employee was counted toward the residency
24 requirement under this paragraph, the substitute employee must also have
25 resided in a zone at the time the substitute was hired.

26 3. A qualified employment position must meet all of the following
27 requirements:

28 (a) The position must be a minimum of one thousand seven hundred fifty
29 hours per year of full-time and permanent employment.

30 (b) The job duties must be performed primarily at the zone locations
31 of the business. If an eligible employee in a qualified employment position
32 is transferred or assigned to work in the taxpayer's workplace at a different
33 location that is also located in an enterprise zone and qualifies as a zone
34 location, it may be considered to be continuous employment if it continues to
35 meet all qualified employment position requirements.

36 (c) The employment must include health insurance coverage for the
37 employee for which the employer pays at least fifty per cent of the premium
38 or membership cost. If the taxpayer is self-insured, the taxpayer must pay
39 at least fifty per cent of a predetermined fixed cost per employee for an
40 insurance program that is payable whether or not the employee has filed
41 claims.

42 (d) The employer must pay compensation at least equal to the wage
43 offer by county as computed annually by the department of economic security
44 research administration division.

1 (e) The employee must have been employed for at least ninety days
2 during the first taxable year. An employee who is hired during the last
3 ninety days of the taxable year shall be considered a new employee during the
4 next taxable year. A qualified employment position that is filled during the
5 last ninety days of the taxable year is considered to be a new qualified
6 employment position for the next taxable year.

7 (f) The employee has not been previously employed by the taxpayer
8 within twelve months before the current date of hire.

9 C. A credit is allowed for employment in the second and third year
10 only for qualified employment positions for which a credit was allowed in the
11 first year.

12 D. The net increase in the number of qualified employment positions is
13 the lesser of the total number of filled qualified employment positions
14 created in the zone during the tax year or the difference between the average
15 number of full-time employees in the zone in the current tax year and the
16 average number of full-time employees during the immediately preceding
17 taxable year. The net increase in the number of qualified employment
18 positions computed under this subsection may not exceed two hundred qualified
19 employment positions per taxpayer each year.

20 E. A taxpayer who claims a credit under section 20-224.04 shall not
21 claim a credit under this section with respect to the same employees.

22 F. Pursuant to subsection A of this section, if the allowable tax
23 credit exceeds the state premium tax liability, the amount of the claim not
24 used as an offset against the state premium tax liability may be carried
25 forward as a tax credit against subsequent years' state premium tax liability
26 for the period, not to exceed five taxable years, provided that the insurer
27 remains in an enterprise zone.

28 G. If a person purchases an insurance business in a zone or if an
29 insurance business in a zone changes ownership through reorganization, stock
30 purchase or merger, the new taxpayer may claim first year credits only for
31 one or more qualified employment positions that it created and filled with an
32 eligible employee after the purchase or reorganization was complete. If a
33 person purchases a taxpayer that had qualified for first or second year
34 credits or if an insurance business changes ownership through reorganization,
35 stock purchase or merger, the new taxpayer may claim the second or third year
36 credits if it meets other eligibility requirements of this section. Credits
37 for which a taxpayer qualified before the changes described in this
38 subsection are terminated and lost at the time the changes are implemented.

39 H. An insurer that claims a tax credit against state premium tax
40 liability is not required to pay any additional retaliatory tax imposed
41 pursuant to section 20-230 as a result of claiming that tax credit.

42 I. A failure to timely report and certify to the department of
43 commerce the information prescribed by section 41-1525, subsection B,
44 paragraphs 1, 2 and 3 and in the manner prescribed by section 41-1525,
45 subsection C, disqualifies the insurer from the credit under this

1 section. The department of insurance shall require written evidence of the
2 timely report to the department of commerce.

3 J. The termination of an enterprise zone does not affect the credit
4 under this section with respect to:

5 1. Insurers that have employees in the second and third years of
6 employment in qualified employment positions under subsection A, paragraphs 2
7 and 3 of this section if the business remains in the location that was in the
8 enterprise zone.

9 2. Amounts carried forward into subsequent taxable years under
10 subsection F of this section.

11 K. The department may adopt rules necessary for the administration of
12 this section.

13 L. For the purposes of this section, "insurer" means any entity that
14 is subject to premium tax liability pursuant to section 20-224, ~~20-837,~~
15 ~~20-1010, 20-1060~~ or 20-1097.07.

16 Sec. 4. Section 20-224.04, Arizona Revised Statutes, is amended to
17 read:

18 20-224.04. Premium tax credit for increased employment in
19 military reuse zones; definitions

20 A. A tax credit is allowed against the premium tax liability incurred
21 by an insurer pursuant to section 20-224, ~~20-837, 20-1010, 20-1060~~ or
22 20-1097.07 for net increases in employment positions of residents of this
23 state by an insurer that is located in a military reuse zone established
24 under title 41, chapter 10, article 3. A tax credit is not allowed for the
25 portion of the tax payable to the fire fighters' relief and pension fund
26 pursuant to section 20-224 or the portion of the tax payable to the public
27 safety personnel retirement system pursuant to section 20-224.01. The amount
28 of the tax credit is a dollar amount allowed for each new employee,
29 determined as follows:

30 1. With respect to each employee other than a dislocated military base
31 employee:

32 1st year of employment	\$ 500
33 2nd year of employment	\$1,000
34 3rd year of employment	\$1,500
35 4th year of employment	\$2,000
36 5th year of employment	\$2,500

37 2. With respect to each dislocated military base employee:

38 1st year of employment	\$1,000
39 2nd year of employment	\$1,500
40 3rd year of employment	\$2,000
41 4th year of employment	\$2,500
42 5th year of employment	\$3,000

43 B. Pursuant to subsection A of this section, if the allowable tax
44 credit exceeds the state premium tax liability, the amount of the claim not
45 used as an offset against the state premium tax liability may be carried

forward as a tax credit against subsequent years' state premium tax liability for the period, not to exceed five taxable years, if the insurer remains in the military reuse zone.

C. The net increase in the number of employees for purposes of this section shall be determined by comparing the insurer's average employment in the military reuse zone during the taxable year with the insurer's previous year's fourth quarter employment in the zone, based on the insurer's report to the department of economic security for unemployment insurance purposes but considering only employment in the zone.

D. A credit is not allowed under this section with respect to an employee whose place of employment is relocated by the insurer from a location in this state to the military reuse zone unless the insurer maintains at least the same number of employees in this state but outside the zone.

E. A taxpayer who claims a credit under section 20-224.03 shall not claim a credit under this section with respect to the same employees.

F. For the purposes of this section:

1. "Dislocated military base employee" means a civilian who previously had permanent full-time civilian employment on the military facility as of the date the closure of the facility was finally determined under federal law, as certified by the department of commerce.

2. "Insurer" means any entity that is subject to premium tax liability pursuant to section 20-224, ~~20-837, 20-1010, 20-1060~~ or 20-1097.07.

Sec. 5. Repeal

Section ~~20-224.05~~, Arizona Revised Statutes, is repealed.

Sec. 6. Section 20-225, Arizona Revised Statutes, is amended to read:

~~20-225.~~ Failure to pay tax: penalty

A. Any insurer failing to pay the tax prescribed by sections 20-224, ~~20-224.01, 20-837, 20-1010, 20-1060~~ and 20-1097.07 is subject to a civil penalty equal to the greater of twenty-five dollars or five per cent of the amount due plus interest at the rate of one per cent per month from the date the tax was due.

B. The director may refuse to renew the certificate of authority of any insurer failing to pay such tax on or before the date it is due. The director shall revoke the certificate of authority of any insurer failing to pay such tax for more than thirty days after it was due.

Sec. 7. Repeal

Sections ~~20-837, 20-1010 and 20-1060~~, Arizona Revised Statutes, are repealed.

Sec. 8. Section 20-2304, Arizona Revised Statutes, is amended to read:

~~20-2304.~~ Availability of insurance; premium tax exemption

A. Beginning on July 1, 1997, as a condition of doing business in this state each accountable health plan shall offer at least one health benefits plan on a guaranteed issuance basis to small employers as required by this section. All small employers qualify for this guaranteed offer of coverage.

1 The accountable health plan shall provide a health benefits plan to each
2 small employer without regard to health status-related factors if the small
3 employer agrees to make the premium payments and to satisfy any other
4 reasonable provisions of the plan that are not inconsistent with this
5 chapter.

6 B. If an accountable health plan offers more than one health benefits
7 plan to small employers, the accountable health plan shall offer a choice of
8 all health benefits plans that the accountable health plan offers to small
9 employers and shall accept any small employer that applies for any of those
10 plans.

11 C. In addition to the requirements prescribed in section 20-2323, for
12 any offering of any health benefits plan to a small employer, as part of the
13 accountable health plan's solicitation and sales materials, an accountable
14 health plan shall make a reasonable disclosure to the employer of the
15 availability of the information described in this subsection and, on request
16 of the employer, shall provide that information to the employer. The
17 accountable health plan shall provide information concerning the following:

- 18 1. Provisions of coverage relating to the following, if applicable:
 - 19 (a) The accountable health plan's right to change premium rates and
20 the factors that may affect changes in premium rates.
 - 21 (b) Renewability of coverage.
 - 22 (c) Any preexisting condition exclusion.
 - 23 (d) Any affiliation period applied by a health care services
24 organization.
 - 25 (e) The geographic areas served by health care services organizations.
- 26 2. The benefits and premiums available under all health benefits plans
27 for which the employer is qualified.

28 D. The accountable health plan shall describe the information required
29 by subsection C of this section in language that is understandable by the
30 average small employer and with a level of detail that is sufficient to
31 reasonably inform a small employer of the employer's rights and obligations
32 under the health benefits plan. This requirement is satisfied if the
33 accountable health plan provides each of the following for each product the
34 accountable health plan offers:

- 35 1. An outline of coverage that describes the benefits in summary form.
- 36 2. The rate or rating schedule that applies to the product,
37 preexisting condition exclusion or affiliation period.
- 38 3. The minimum employer contribution and group participation rules
39 that apply to any particular type of coverage.
- 40 4. In the case of a network plan, a map or listing of the areas
41 served.

1 E. An accountable health plan is not required to disclose any
2 information that is proprietary and protected trade secret information under
3 applicable law.

4 F. An accountable health plan that issues a health benefits
5 plan through a network plan may limit the employers that may apply for any
6 health benefits plan offered by the accountable health plan to those eligible
7 individuals who live, work, ~~or~~ reside in the service area for the network
8 plan of the accountable health plan.

9 G. On approval of the director, an accountable health plan may refuse
10 to enroll a qualified small employer in a health benefits plan or in a
11 geographic area served by the plan if the accountable health plan
12 demonstrates that its financial or administrative capacity to serve
13 previously enrolled groups and individuals would be impaired. An accountable
14 health plan that refuses to enroll a qualified small employer may not enroll
15 an employer of the same or larger size until the earlier of:

16 1. The date on which the director determines that the accountable
17 health plan has the capacity to enroll a qualified small employer.

18 2. The date on which the accountable health plan enrolls a qualified
19 small employer.

20 H. An accountable health plan that offers coverage to a qualified
21 small employer shall offer coverage to all of the eligible employees of the
22 qualified small employer and their eligible dependents.

23 I. An accountable health plan may request health screening and
24 underwriting information on prospective enrollees to evaluate the risks
25 associated with a qualified small employer who applies for coverage. The
26 accountable health plan may use this information for the purposes of setting
27 premiums, evaluating plan offerings and making reinsurance decisions. An
28 accountable health plan shall not use this information to deny coverage to a
29 qualified small employer or to an eligible employee or to an eligible
30 dependent, except a late enrollee who attempts to enroll outside an open
31 enrollment period.

32 J. ~~Notwithstanding the requirements of section 20-224, subsection B~~
33 ~~and sections 20-837, 20-1010 and 20-1060, beginning July 1, 1996, accountable~~
34 ~~health plans shall pay a premium tax of one per cent of the net premiums~~
35 ~~received for health benefits plans issued to small employers.~~ Beginning July
36 1, 1997, accountable health plans are exempt from the premium taxes that are
37 required by ~~this subsection,~~ section 20-224, subsection B ~~and sections~~
38 ~~20-837, 20-1010 and 20-1060,~~ for the net premiums received for health
39 benefits plans issued to small employers. Each accountable health plan shall
40 notify the small employers to whom it provides coverage of the reductions in
41 the premium tax as specified in this subsection.

42 K. The director may use independent contractor examiners pursuant to
43 sections 20-148 and 20-159 to review the higher level of coverage and lower
44 level of coverage health benefits plans offered by an accountable health plan
45 insurer in compliance with this section. All examination and examination

1 related expenses shall be borne by the insurer and shall be paid by the
2 insurance examiners' revolving fund pursuant to section 20-159.

3 Sec. 9. Repeal

4 Section ~~43-210~~, Arizona Revised Statutes, is repealed.

5 Sec. 10. Effective date

6 This act is effective from and after December 31, 2008.